



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2020-0705; FRL-9235-02-R4]

#### Air Plan Approval; North Carolina: Mecklenburg General Provisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing approval of a State Implementation Plan (SIP) revision to the Mecklenburg County portion of the North Carolina SIP, hereinafter referred to as the Mecklenburg County Local Implementation Plan (LIP). The revision was submitted through the North Carolina Division Air Quality (NCDAQ), on behalf of Mecklenburg County Air Quality (MCAQ), via a letter dated April 24, 2020, and was received by EPA on June 19, 2020. The revision updates several Mecklenburg County Air Pollution Control Ordinance (MCAPCO) rules incorporated into the LIP, including updating and revising certain definitions. EPA is approving these changes pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule is effective [Insert date 30 days after date of publication in the FEDERAL REGISTER].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2020-0705. All documents in the docket are listed on the [www.regulations.gov](https://www.regulations.gov) web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](https://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division,

U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Pearlene Williams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9144. Ms. Williams can also be reached via electronic mail at [williams.pearlene@epa.gov](mailto:williams.pearlene@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The Mecklenburg County LIP was originally submitted to EPA on June 14, 1990, and EPA approved the plan on May 2, 1991. *See* 56 FR 20140. Mecklenburg County prepared three submittals in order to modify the LIP for, among other things, general consistency with the North Carolina SIP.<sup>1</sup> The three submittals were submitted to EPA as follows: NCDAQ transmitted the October 25, 2017, submittal to EPA but withdrew it from review through a letter dated February 15, 2019. On April 24, 2020, NCDAQ resubmitted the October 25, 2017, update to EPA and also submitted the January 21, 2016, and January 14, 2019, updates. Due to an inconsistency with public notice at the local level, these submittals were withdrawn from EPA through a letter dated February 15, 2019. Mecklenburg County corrected this error, and NCDAQ submitted the updates in a revision dated April 24, 2020.<sup>2</sup>

### **II. What Action is EPA Taking?**

---

<sup>1</sup> The Mecklenburg County, North Carolina revision that is dated April 24, 2020, and received by EPA on June 19, 2020, is comprised of three previous submittals – one dated January 21, 2016; one dated October 25, 2017; and one dated January 14, 2019.

<sup>2</sup> The April 24, 2020, submittal was received by EPA on June 19, 2020.

On April 24, 2020, NCDAQ submitted to EPA changes to the MCAPCO to be incorporated into the LIP.<sup>3</sup> The January 14, 2019, portion of this submission includes changes to Rules 1.5102 - *Definition of Terms* and 1.5111 - *General Recordkeeping, Reporting and Monitoring Requirements* of MCAPCO Article 1.0000 - *Permitting Provisions for Air Pollution Sources, Rules and Operating Regulations for Acid Rain Sources, Title V and Toxic Air Pollutants*. The January 21, 2016 portion of this submission includes changes and updates to Rule 1.5104 - *General Duties and Powers of the Director, With the Approval of the Board* of MCAPCO Article 1.0000.

On November 17, 2021, EPA published a Notice of Proposed Rulemaking (NPRM) proposing to approve the April 24, 2020, SIP revision regarding updates to Mecklenburg's general provisions and administrations rules. *See* 86 FR 64108. The NPRM provides additional detail regarding the background and rationale for EPA's action. Comments on the November 17, 2021, NPRM were due on or before December 17, 2021. EPA received no comments on the November 17, 2021, NPRM.

EPA is approving the incorporation of the aforementioned revisions to the MCAPCO rules into the Mecklenburg LIP because these rules add clarity to the LIP and are consistent with the CAA and applicable regulations.

### **III. Incorporation by Reference**

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of MCAPCO Rules 1.5102 - *Definition of Terms* and 1.5111 - *General Recordkeeping, Reporting and Monitoring Requirements*, both which have an effective date of December 18, 2018; as well as Rule 1.5104 - *General Duties and Powers of the Director, With the Approval of the Board*, with an effective date of December 15, 2015, into the

---

<sup>3</sup> The April 24, 2020, submittal contains changes to other Mecklenburg LIP-approved rules that are not addressed in this notice. EPA will be acting on those rules in separate actions.

Mecklenburg County portion of the North Carolina SIP. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>4</sup>

#### **IV. Final Action**

EPA is finalizing regulatory text that incorporates into the Mecklenburg County LIP revisions to MCAPCO Rules 1.5102 - *Definition of Terms* and 1.5111 - *General Recordkeeping, Reporting and Monitoring Requirements*, effective on December 18, 2018, as well as Rule 1.5104 - *General Duties and Powers of the Director, With the Approval of the Board*, effective on December 15, 2015. EPA is taking final action to approve these changes because they are consistent with the CAA.

#### **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

---

<sup>4</sup> *See* 62 FR 27968 (May 22, 1997).

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take

effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days from date of publication of this document in the FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting, and recordkeeping requirements.

Dated: December 29, 2021.

Daniel Blackman,  
*Regional Administrator,*  
*Region 4.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

## **PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### **Subpart II - North Carolina**

2. In §52.1770, in paragraph (c), amend table (3) by removing the entries for “Section 1.5102,” “Section 1.5104,” and “Section 1.5111,” and adding “Rule 1.5102,” “Rule 1.5104,” and “Rule 1.5111,” in their place to read as follows:

#### **§52.1770 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

#### **(3) EPA Approved Mecklenburg County Regulations**

<b>State citation</b>	<b>Title/subject</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>Explanation</b>
**	**	*	*	*
<b>Article 1.0000 Permitting Provisions for Air Pollution Sources, Rules and Operating Regulations for Acid Rain Sources, Title V and Toxic Air Pollutants</b>				
<b>Section 1.5100 General Provisions and Administrations</b>				
**	**	*	*	*
Rule 1.5102	Definition of Terms	12/18/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
**	**	*	*	*
Rule 1.5104	General Duties and Powers of the Director, With the Approval of the Board	12/15/2015	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
Rule 1.5111	General Recordkeeping, Reporting and Monitoring Requirements	12/18/2018	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	
**	**	*	*	*

\* \* \* \* \*

